

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Robert M. Summers, Ph.D., Secretary

BILL NO: House Bill 189

COMMITTEE: Economic Matters

POSITION: Support with Amendments

TITLE: Maryland Occupational Safety and Health Act – Chemical Information List – Submission to Department of the Environment - Repeal

BILL ANALYSIS:

Under the Labor and Employment Article, Maryland Occupational Safety and Health Act, employers are required to compile and maintain a chemical information list for each hazardous chemical that is formulated, handled, manufactured, packaged, processed, reacted, stored or transferred in the workplace, and to identify each work area where the hazardous chemical is found. Employers are further required to provide access to the lists upon request of an employee or designated representative. Under Section 5-406, a copy of the list must also be submitted to the Department of the Environment, which must then make it available to certain members of the public, such as emergency responders and contractors who are not given the information by the employer.

Under the Environment Article, Sections 6-501 and 6-504, the Department must maintain the information received under the Labor and Employment Article Section 5-406, and provide access to certain additional members of the public—environmental organizations, civic or consumer organizations, and individuals living in the vicinity of the business that provides the list.

House Bill 189 would repeal the above-described sections of both articles, with the effect that the chemical information lists and material safety data sheets would no longer be submitted to the Department of the Environment, and the Department would no longer be required to provide access to members of the public under Environment Article Section 6, Subtitle 5 entitled “Public Access to Information on Hazardous or Toxic Chemicals.”

POSITION AND RATIONALE:

The Maryland Department of the Environment supports House Bill 189 with amendment for public health, public access and fiscal reasons. From a public health standpoint, the Department's amendments will allow continued access to chemical information lists (CILs) in the event employers go out of business or otherwise are no longer required to keep CILs. The amendments will ensure that employees of such companies will continue to have

access to CILs (through DLLR) for 40 years if some work-related illness arises after a company goes out of business.

Furthermore, the Department's comprehensive centralization of all CILs provides minimal public health benefit above the federal Occupational Safety and Health Administration (OSHA) requirements. OSHA's Hazardous Chemical Communication framework requires employers to develop and maintain a written hazard communication program for the work place that includes: keeping CILs on file, sharing CILs with employees/contractors upon request, providing training to employees/contractors on the hazards associated with chemicals in the work place, labeling containers of chemicals in the work place, and providing employees/contractors copies of material safety data sheets that detail hazards of specific chemicals in the work place and proper safety precautions. Since CILs are already required to be kept by employers under OSHA law as part of a much larger and robust hazardous chemical communication framework, the further step of requiring that all CILs be kept by the Department (not just those of employers out of business or no longer regulated) results in no substantial employee protections.

From a public access standpoint, the Department's amendments allow continued access to CILs by entities (environmental groups, civic and community associations) currently given access in the Environment Article 6-501 through 6-504, sections which HB 189 repeals. The amendments ensure that interested community or environmental stakeholders have continued access to CILs extant under current law.

Lastly, the Department supports the amendments for fiscal reasons. The Department's role as a central repository for this information is currently an unfunded mandate that requires one FTE to implement. Also, maintenance of the Department's central repository requires approximately 18,000 businesses in Maryland to implement a duplicative effort, i.e., sending CILs already in their company files to the Department. The proposed amendments address the Department's public health and public access concerns while remedying both an unfunded mandate and the duplicative efforts of businesses.

FOR MORE INFORMATION,
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AMENDMENTS TO HOUSE BILL 189

Amendment No. 1

On page 2, in line 4, before “5-406” insert:

“5-405.

(e) (1) Each employer shall keep, for at least 40 years, each chemical information list that the employer compiles or revises.

(2) IN THE EVENT THAT A BUSINESS CEASES TO OPERATE OR TO FORMULATE, HANDLE, MANUFACTURE, PACKAGE, PROCESS, REACT, REPACKAGE, STORE, OR TRANSFER HAZARDOUS CHEMICALS IN A WORKPLACE REGULATED UNDER THIS SUBTITLE, THE EMPLOYER SHALL SUBMIT THE MOST RECENT CHEMICAL INFORMATION LIST COMPILED BY THE EMPLOYER TO THE DEPARTMENT.

(3) THE DEPARTMENT SHALL KEEP, FOR AT LEAST 40 YEARS, EACH CHEMICAL INFORMATION LIST SUBMITTED TO THE DEPARTMENT BY AN EMPLOYER UNDER SUBSECTION (E) PARAGRAPH (2) OF THIS SECTION.”

Amendment No. 2

On page 3, in line 6, before “5-408” insert:

“5-407.

(b) [A person described in Title 6, Subtitle 5 of the Environment Article has access to a chemical information lists or material safety data sheet in accordance with that subtitle.]

ON WRITTEN REQUEST TO THE EMPLOYER, OR TO THE DEPARTMENT IN THE EVENT AN EMPLOYER’S BUSINESS HAS TERMINATED OR CEASED TO OPERATE AS DESCRIBED IN SUBSECTION 5-405(E)(2) OF THIS SUBTITLE, THE EMPLOYER OR THE DEPARTMENT SHALL PROVIDE ACCESS TO INFORMATION ON A CHEMICAL INFORMATION LIST TO THE FOLLOWING PERSONS:

(1) A PERSON WHO PROVIDES FIRE, AMBULANCE, OR RESCUE SERVICE FOR THE APPROPRIATE GEOGRAPHIC AREA;

(2) A NURSE, PHYSICIAN, OR PHYSICIAN ASSISTANT

WHO IS TREATING AN INDIVIDUAL IN A MEDICAL EMERGENCY;

(3) THE COMMISSIONER;

(4) A FORMER EMPLOYEE;

(5) AN INDEPENDENT CONTRACTOR OR EMPLOYER;

(6) ANY ENVIRONMENTAL, CIVIC, OR CONSUMER ORGANIZATION THAT IS IN THE STATE OF MARYLAND; AND

(7) ANY INDIVIDUAL WHO LIVES:

(I) IN A LOCAL COMMUNITY WHERE A BUSINESS STORES, PRODUCES, OR LOCATES HAZARDOUS OR TOXIC CHEMICALS; OR

(II) IN THE NEAREST LOCAL COMMUNITY TO A BUSINESS THAT STORES, PRODUCES, OR LOCATES HAZARDOUS OR TOXIC CHEMICALS.”